It is laid down as a fundamental principle that the attaching creditor can acquire no greater interest in the property than the debtor possesses. See *Shahan* v. *Hertzberg*, 73 Ala. 59, 64; DRAKE, ATTACHMENT, § 245. Where the debtor is not entitled to immediate possession, attachment, which is essentially an assumption of possession, would therefore seem to be precluded. So it has been held that an attachment must be postponed in favor of a prior lien. *Truslow* v. *Putnam*, 1 Keyes (N. Y.) 568. See *Nathan* v. *Giles*, 5 Taunt. 558, 576. The same decision was reached in favor of a bailee for hire. *Hartford* v. *Jackson*, 11 N. H. 145. See *Stanley* v. *Robbins*, 36 Vt. 422, 433; *Brigham* v. *Avery*, 48 Vt. 602, 607. Clearly, therefore, the bailee's special interest must defeat the attachment in the principal case. Such an attachment was also discharged, in an early case, on the ground that it was detrimental to the freedom of commerce. *Michigan Central R. Co.* v. *Chicago, etc. R. Co.*, 1 Bradw. (Ill.) 399. But *cf. Boston, etc. Ry.* v. *Gilmore*, 37 N. H. 410. Again such an attachment has been considered an unauthorized interference with interstate commerce. *Wall* v. *Norfolk & Western R. Co.*, 52 W. Va. 485, 44 S. E. 294; *Connery* v. *Quincy, etc. R. Co.*, 92 Minn. 20, 99 N. W. 365. But the Supreme Court of the United States, at least in the case of cars not in use, has held that the attachment cannot be defeated on this ground. *Davis* v. *Cleveland, etc. R. Co.*, 217 U. S. 157. See 23 HARV. L. REV. 642. It has been suggested, however, that where the bailee has a special interest in the property, his creditor may proceed by garnishment. See 1 SHINN, ATTACHMENT AND GARNISHMENT, § 34. But this would not be feasible in the principal case, for the obligation of the bailee to redeliver does not mature until the car has passed beyond the court's jurisdiction. See *Southern Flour & Grain Co.* v. *Northern Pacific Ry. Co.*, 127 Ga. 626, 630, 56 S. E. 742, 744.

BANKRUPTCY — PREFERENCES — PREVIOUS TRANSFER RECORDED WITHIN FOUR MONTHS OF BANKRUPTCY.— More than four months before bankruptcy an insolvent transferred property to the appellant, which the latter had reasonable cause to believe would result in a preference. The transfer was by deed, which was recorded less than four months before the filing of the petition. By the law of Ohio the unrecorded deed was valid except as to subsequent purchasers in good faith. The trustee in bankruptcy now seeks to avoid the transfer as a preference. *Held*, that the deed is not voidable. *Carey* v. *Donohue*, Sup. Ct. Off. No. 179.

A contract of conditional sale executed more than four months before bankruptcy was recorded within the four months period, at a time when the vendee was insolvent, as the vendor knew. Under the law of Kansas, a conditional sale is not regarded as an absolute sale with a mortgage back. The recording law made such contracts void as against creditors who fastened a lien upon the property by legal process before the contract was recorded. The trustee seeks to avoid the contract as a preference. *Held*, that it is not voidable. *Bailey* v. *Baker Ice Machine Co.*, 36 Sup. Ct. 50.

For a discussion of the questions involved in these cases, see NOTES, p. 766.

BANKRUPTCY — STATE BANKRUPTCY AND INSOLVENCY LAWS — STATE LAW SUPERSEDED AS TO FARMERS. — An insolvent farmer made a voluntary assignment for the benefit of creditors under the Pennsylvania Insolvency Law which provides for voluntary and involuntary proceedings, and for distribution of the assets and the discharge of the insolvent. (1901, LAWS OF PENNSYLVANIA, 404.) The National Bankruptcy Act expressly excepts farmers from involuntary bankruptcy, but provides for voluntary bankruptcy. (30 U. S. STAT. 544.) The assignee brings suit to set aside a fraudulent conveyance in pursuit of his right under the state statute. *Held*, that the assignee has no right to sue because the National Bankruptcy Act has superseded the Pennsyl-

vania statute as to the voluntary bankruptcy of a farmer. *Dictum:* that the same is true of involuntary bankruptcy. *Closser* v. *Strong*, 35 Am. Bank. Rep. 864 (U. S. Dist. Ct., Western Dist. of Pa.).

State legislation, dealing with the subject of bankruptcy, though admittedly within the power of the state, is superseded by a national exercise of the power granted to Congress by Art. 1, Sec. 8, of the Constitution. *Tua* v. *Carriere*, 117 U. S. 201. See *Sturges* v. *Crowninshield*, 4 Wheat. (U. S.) 122, 196. The extent to which it is superseded, however, is disputed, the cases appearing to set forth four views. First, that the state act is not suspended unless the federal courts can at the very time actually take jurisdiction over the case. See *Lace* v. *Smith*, 34 R. I. 1, 12, 86 Atl. 268, 272; *Geery's Appeal*, 43 Conn. 289, 303; *Singer* v. *National Bedstead Co.*, 65 N. J. E. 290, 294, 295; *Sturges* v. *Crowninshield*, *supra*, 195. Second, that where the National Act either expressly or by necessary implication excepts a class of cases from its operation, Congress did not intend to interfere with state legislation on this subject. See *Herron* v. *Superior Ct.*, 136 Cal. 279, 282, 68 Pac. 814, 815; *Simpson* v. *Savings Bank*, 56 N. H. 466, 475. Third, that unless the National Act provides for both voluntary and involuntary bankruptcy on a set of facts, the state insolvency law is not in any respect superseded. See *In re Rittenhouse's Estate*, 30 Pa. Super. Ct. 468, 470; *McCullough* v. *Goodhart*, 3 A. B. Rep. 85, 86; *Miller* v. *Jackson*, 34 Pa. Super. Ct. 31, 39. Fourth, that the state courts are precluded from entertaining any petition under a state bankruptcy act. See *Parmenter Mfg. Co.* v. *Hamilton*, 172 Mass. 178, 180, 51 N. E. 529, 530; *Harbaugh* v. *Costello*, 184 Ill. 110, 118, 56 N. E. 363, 365. *Cf. Ketcham* v. *McNamara*, 72 Conn. 709, 46 Atl. 146. The fourth view, adopted in the principal case appears preferable. For surely Congress intended to create a complete system of bankruptcy, and when it made certain exceptions it did so because it seemed wise that in such cases bankruptcy proceedings should not be permitted at all. See S. Williston, "Effect of a National Bankruptcy Law upon State Laws," 22 HARV. L. REV. 547, 553; REMINGTON, BANKRUPTCY, § 1630. See *contra*, *Singer* v. *National Bedstead Co.*, *supra*, 296. And the general tendency of decisions as to other matters, denies to the states the right to supplement federal legislation on a subject. See *Houston* v. *Moore*, 5 Wheat. (U. S.) 1, 22, 23; *Southern Ry. Co.* v. *Ry. Comm.*, 236 U. S. 439, 446; *Erie Ry. Co.* v. *New York*, 233 U. S. 671, 683. Yet the decision of the principal case is contrary to the holding of the Pennsylvania state courts. *Citizens National Bank* v. *Gass*, 29 Pa. Super. Ct. 31; *Miller* v. *Jackson*, *supra*. And the *dictum* is opposed to previous holdings of state courts. *Old Town Bank* v. *McCormick*, 96 Md. 341. See *In re Rittenhouse's Estate*, *supra*.

BILLS AND NOTES — DELIVERY — DELIVERY TO PAYEE IN TRUST FOR SPECIAL ENDORSEE — *BONÂ FIDE* PURCHASER. — The maker of a check, without relinquishing control over it, procured the payee's special indorsement to the plaintiff. He then gave it to the payee to give to the plaintiff. The former indorsed the latter's name, and negotiated the check to a *bonâ fide* purchaser. The purchaser deposited it in the defendant bank, which, having collected it, is now sued by the plaintiff who claims the proceeds as owner of the check. *Held*, that the plaintiff may recover. *Wolfin* v. *Security Bank of New York*, 156 N. Y. Supp. 474.

At common law, and by the Negotiable Instruments Law, actual or constructive delivery of a negotiable instrument is necessary to vest title in an indorsee. *Clark* v. *Boyd*, 2 Ohio, 56. See BRANNAN, NEGOTIABLE INSTRUMENTS LAW, §§ 30, 191; 1 DANIEL, NEGOTIABLE INSTRUMENTS, 6 ed., § 63 *a*. Nor is the mere delivery to the transferor's agent effective as a constructive delivery to the transferee. *Brind* v. *Hampshire*, 1 M. & W. 365; *Talbot* v. *Bank of Rochester*, 1 Hill (N. Y.) 295. See *contra*, *Gordon* v. *Adams*, 127 Ill. 223, 226,